

\*\*Original filed 2/27/07\*\*

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DARVIN HEATH,	)	No. C 05-2688 JF (PR)
Plaintiff,	)	ORDER OF DISMISSAL
vs.	)	
BOARD OF PRISON TERMS,	)	
Defendant.	)	

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Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against the Board of Prison Terms. Plaintiff has been granted leave to proceed in forma pauperis in a separate order. On October 6, 2006, the Court dismissed the complaint with leave to amend because Plaintiff did not set forth sufficient facts to state a claim under 42 U.S.C. § 1983. The Court directed Plaintiff to file an amended complaint, on the Court's enclosed form, within thirty days. The Court warned Plaintiff that failure to amend within the designated time would result in a dismissal of the complaint without prejudice. On October 18, 2006, the Court's order was returned by mail as "undeliverable." As of the date of this order, Plaintiff has not communicated with the Court, nor filed an amended complaint.

1 Accordingly, the instant complaint is dismissed without prejudice for Plaintiff's failure to  
2 file an amended complaint and failure to prosecute this action pursuant to Federal Rule of  
3 Civil Procedure 41(b).

4 IT IS SO ORDERED.

5 DATED: 2/23/07

  
JEREMY FOGEL  
United States District Judge

1 A copy of this ruling was mailed to the following:

2 Darwin Heath  
3 V-53394  
4 San Quentin State Prison  
5 San Quentin, CA 94974  
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